

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 455 – SB 36*625

March 2, 2014

SUMMARY OF ORIGINAL BILL: Requires the court clerk to notify any person who has a legal claim to the proceeds of a pending property sale, provided the person notifies the clerk of such legal claim prior to the sale. Notice to parties or others in delinquent tax suits and sales are to be governed by the Tennessee Rules of Civil Procedure.

FISCAL IMPACT OF ORIGINAL BILL:

Other Fiscal Impact – There will be a shift in local government expenditures and responsibilities from the delinquent tax attorney to the clerk of the court resulting in a not significant net impact to local governments.

SUMMARY OF AMENDMENT (013411): Deletes all language after the enacting clause and rewrites the bill. Requires parties receiving notice pursuant to Tenn. Code Ann. § 67-5-2502(a)(3), to also be given notice of the amount of proceeds resulting from the sale, the division of such proceeds, and the remainder, if proceeds remain after distribution pursuant to Tenn. Code Ann. § 67-5-2501.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase Local Expenditures – Exceeds \$5,000*

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 67-5-2501(b)(3), the proceeds from such sale shall be applied first to the payment of the ten percent penalty allowed as compensation for prosecuting the suit, second to the costs, and third with the remainder being applied to the state first, county second, and the municipality third, the amount due each to be ascertained by a decree of the court.
- Pursuant to Tenn. Code Ann. § 67-5-2502(a)(3), notice to parties or others in delinquent tax suits and sales shall be governed by the Tennessee Rules of Civil Procedure, and may be forwarded to the address of a property owner.

- According to the Tennessee Association of Property Tax Professionals (TAPTP), currently this requirement does not include notification of the results of the property tax sale.
- While the precise number of local governments who currently send notification of results of a property tax sale is unknown, it is estimated that 50 percent, or 48 counties, are currently performing this notification.
- Based on responses to the 2013 Local Government Survey conducted by the Fiscal Review Committee, participating county officials reported conducting an average of two delinquent property tax sales per year, with an average of 37 properties offered at each sale, and approximately 78 percent of properties offered being sold; resulting in approximately 5,483 properties sold at delinquent tax sales per year statewide [(37 properties x 78% sold) x 2 sales per year x 95 counties holding sales].
- Pursuant to Tenn. Code Ann. § 67-5-2502(c), the delinquent tax attorney shall make a reasonable search of the public records and give notice to persons identified by the search as having an interest in the property prior to the tax sale.
- It is reasonably estimated that 50 percent, or 2,741 properties, will have parties who have been notified by the delinquent tax attorney prior to the delinquent tax sale.
- It is indeterminable how many parties will be identified prior to the sale as having an interest in the property, the method of notification that will be used after the sale has occurred and if any additional resources will be required by the county for such notification after the sale. However, the recurring increase in local government expenditures for providing such additional notifications is reasonably estimated to exceed \$5,000 per year statewide.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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